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UNITED STATES MAGISTRATE COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. 3 06 70060 MEJ
)	
Plaintiff,)	PROPOSED ORDER AND
)	STIPULATION FOR CONTINUANCE
v.)	FROM MAY 17, 2006 TO JUNE 5, 2006
)	AND EXCLUDING TIME FROM THE
MICHAEL ANTHONY KENNELLY,)	SPEEDY TRIAL ACT CALCULATION
)	(18 U.S.C. § 3161(h)(8)(A)) AND
Defendant.)	WAIVING TIME LIMITS UNDER RULE
)	5.1

With the agreement of the parties, and with the consent of the defendant, the Court enters this order scheduling an arraignment or preliminary hearing date of June 5, 2006 at 9:30A.M. before the duty magistrate judge, and documenting the defendant's waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from May 17, 2006 to June 5, 2006. The parties agree, and the Court finds and holds, as follows:

1. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(B)(iv) to provide continuity of counsel and reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

2. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for preliminary hearing.

3. Counsel for the defense believes that postponing the preliminary hearing is in his client's best interest, and that it is not in his client's interest for the United States to indict the case during the normal 10-day timeline established in Rule 5.1. Counsel for the defense has specifically considered the need for time to consult with Pretrial Services on the question of his client's eligibility for pretrial diversion.

5. The Court finds that, taking into the account the public interest in the prompt disposition of criminal cases, these grounds are good cause for extending the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances, the Court finds that the ends of justice served by excluding the period from May 17, 2006 to June 5, 2006 outweigh the best interest of the public and the defendant in a speedy trial. § 3161(h)(8)(A).

6. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary hearing date before the duty magistrate judge on June 5, 2006 at 9:30A.M., and (2) orders that the period from May 17, 2006 to June 5, 2006 be excluded from the time period for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

IT IS SO STIPULATED:

DATED: May 18, 2006

/S/

RON TYLER
Attorney for Defendant

DATED: May 18, 2006

/S/

BLAKE D. STAMM
Assistant United States Attorney

IT IS SO ORDERED.

DATED: May 25, 2006

HON. ELIZABETH D. LAPORTE
United States District Judge

